

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DAVID LOUIS PEARSON	§ § § § § §	PLAINTIFF Civil No. 1:20-cv-00166-HSO-RPM DEFENDANT
v.		
COMMISSIONER OF SOCIAL SECURITY		

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION [16] AND REMANDING CASE TO COMMISSIONER
OF SOCIAL SECURITY**

BEFORE THE COURT is United States Magistrate Judge Robert P. Myers’s Report and Recommendation [16], which recommends remanding this case to Defendant Commissioner of Social Security for further proceedings. The Commissioner of Social Security has not objected to the Report and Recommendation and has filed a Notice [17] of intent not to respond to the Report and Recommendation. Counsel for Plaintiff has likewise advised the Court that Plaintiff does not intend to respond or object. After due consideration of the Report and Recommendation [16], the record, and relevant legal authority, the Court finds that the Magistrate Judge’s Report and Recommendation [16] should be adopted and that this case should be remanded to Defendant Commissioner of Social Security for further proceedings.

I. BACKGROUND

Plaintiff David Louis Pearson (“Plaintiff”) filed this action under 42 U.S.C. § 405(g) seeking judicial review of the denial by Defendant Commissioner

of Social Security (“Commissioner”) of his application for disability insurance benefits (“DIB”) under Title II of the Social Security Act, as well as the denial of his claim for supplemental security income (“SSI”) under Title XVI of the Social Security Act. Compl. [1]. Plaintiff filed his DIB claim on December 13, 2017, when he was 37 years old, asserting that he became disabled on June 29, 2017. Administrative R. [12] at 195-96. Shortly thereafter, on December 20, 2017, Plaintiff filed for SSI. *Id.* at 197-202. He previously worked as a welder, carpenter, and, most recently, an elevator installer. *Id.* at 244. Plaintiff claimed that he suffered from two medical conditions that prevented him from working: a back injury and blindness or low vision. *Id.* at 213. The Social Security Administration (the “Administration”) denied his application initially and upon reconsideration. *Id.* at 105-11, 116-25. After a hearing held on May 8, 2019, an Administrative Law Judge (“ALJ”) ruled that Plaintiff was not entitled to DIB or SSI, because he was not under a disability as defined under the Social Security Act. *Id.* at 21-30. Plaintiff timely appealed to the Appeals Council, which denied his request for review and the appeal itself. *Id.* 5-9. Plaintiff then filed a Complaint in this Court on May 8, 2020. Compl. [1].

On August 11, 2021, the Magistrate Judge entered a Report and Recommendation [16], recommending that the Court remand this case for further proceedings. R & R [16] at 15. The Report and Recommendation concluded that the ALJ failed to adequately evaluate the persuasiveness of the medical opinions, as required by 20 C.F.R. § 404.1520c(b)(2), because the ALJ did not sufficiently address the factors of consistency and supportability. *Id.* at 12. The Magistrate

Judge found that the ALJ “merely provided the Court with a summary statement that [the non-examining, non-treating] physician opinions were consistent and supported by the record.” *Id.* at 13. Due to the ALJ’s lack of explanation, the Magistrate Judge found that he was unable to review whether substantial evidence supported the ALJ’s decision and recommended that this case be remanded for further proceedings. *Id.* at 14-15. The Commissioner has not objected and instead filed a Notice [17] of intent not to respond. Plaintiff’s counsel has also indicated she does not intend to file a response.

II. DISCUSSION

Because neither party has objected to the Magistrate Judge’s Report and Recommendation [16], the Court is not required to conduct a de novo review of it. 28 U.S.C. § 636(b)(1). The Court need only review the Report and Recommendation [16] and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having conducted the required review, the Court finds that the Report and Recommendation [16] is neither clearly erroneous nor contrary to law and that it should be adopted as the finding of the Court. This case should be remanded for further proceedings and findings by the Commissioner.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Magistrate Judge’s Report and Recommendation [16], entered in this case on August 11, 2021, is **ADOPTED** as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this case is **REMANDED** to the Commissioner of Social Security for further proceedings consistent with the Magistrate Judge's Report and Recommendation. This Court will enter a separate final judgment pursuant to Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 18th day of August, 2021.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE